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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,127	08/21/2003	Krystof C. Zmudzinski	884.930US1	7122
21186 7590 12/28/2007 SCHWEGMAN, LUNDBERG & WOESSNER, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			EXAMINER WORJLOH, JALATEE	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/645,127

Applicant(s)

ZMUDZINSKI ET AL.

Examiner

Jalatee Worjloh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5, and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed October 15, 2007. Claims 1 and 8 were amended. Claim 4 was canceled. Claims 1-3, 5, 7-12 are pending.
2. Claims 1-5 and 7-12 have been examined.

Response to Arguments

3. Applicants' arguments filed October 15, 2007 have been fully considered but they are not persuasive.
4. Applicants argue that Neither Simelius nor Serafat disclose all the limitations of independent claims 1 and 8; particularly, the step of terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master cellular telephone.

However, the Examiner respectfully disagrees. As expressed in the Office Action, Simelius does not expressly disclose terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master cellular telephone. However, as illustrated by Serafat the concept of terminating current execution of the application on a shareable device if the master cellular phone is not executing the application is old and well known (see paragraph [0020]). Although the object of Serafat's system is to eliminate such process by allowing a second player to continue playing when one quits the game, the reference indicates that the "terminating execution of the application shareable device" when the other device is no longer executing/running is a common and old concept/process. As for verifying the current execution, this is an inherent step. Notice,

verification must have occurred since the game for the shareable device cancels if the master device is not running the application. The second player can not play if the first is no longer connected. Thus, in order to cancel the game based on this condition verification must have occurred. One of ordinary skill in the art would have been motivated to modify Simelius to include these features because it prevents unauthorized execution of the application.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication No. 2005/0071278 to Simelius in view of US Publication No. 2002/0138441 to Lopatic and US Publication No. 2006/0154710 to Serafat.

Referring to claim 1, Simelius discloses execution of an application (i.e. first digital content) on a master device (i.e. parent client) by allocating a master license (i.e. parent voucher) and at least one shareable license (i.e. child vouchers) to the master cellular telephone (see paragraph [0027] – the parent client act as a holder of the parent voucher as well as a child client using one or more of the child vouchers & [0015] – a cellular telephone may be), and enabling execution of an application (i.e. second digital content) on a shareable device (i.e. client) by executing the application on the master cellular phone (paragraph [0014] – enable the parent client to access the first digital content from the content provider and [0035] – the first child client accesses the second digital content using the voucher) and by allocating the shareable

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license to the shareable device, wherein the sharable device comprises a second cellular telephone (see paragraph [0012] – parent client communicates one or more first child vouchers to one or more child clients and paragraph [0015] – a cellular telephone may be). See paragraph [0120]. Simelius does not expressly disclose receiving a query at the master cellular telephone to determine current execution of the application, a multi-player game application and terminating execution of the application on the shareable device after failing to receive a response verifying current execution of the application on the master cellular telephone. Lopatic discloses receiving a query at the master device to determine current execution of the application (see paragraph [0018] – the execution of each individualized software product is monitored and paragraph [0167] – the license server receives a request including identification information to run the software product and searches for a license matching the identification information). Serafat discloses multi-player game application and that the concept of terminating current execution of the application on a shareable device if the master is not executing the application is old and well known (see paragraph [0020]). As for verifying the current execution, this is an inherent step. Notice, some type of verification must have occurred since the game for the shareable device cancels if the master device is not running the application. In order to cancel the game based on this condition verification must occur. At the time the invention was made, it would have been obvious one of ordinary skill in the art to modify the method disclose Simelius to include multi-player game application and that the concept of terminating current execution of the application on a shareable device if the master is not executing the application. One of ordinary skill in the art would have been motivated to do this because it prevents unauthorized execution of the game.

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Referring to claim 2, Simelius discloses allocating a plurality of shareable licensees including the shareable license to the master cellular telephone (see paragraph [0027] – the parent client act as a holder of the parent voucher as well as a child client using one or more of the child vouchers & paragraph [0015]).

Referring to claim 3, Simelius discloses allocating the plurality of shareable licenses to a corresponding plurality of shareable device (see paragraph [0012] – parent client communicates one ore more first child vouchers to one or more child clients).

Referring to claim 7, Simelius discloses discovering the existence of the master cellular telephone and the application by the shareable device and receiving the second application by the shareable device (see claim 1 above).

Claim 8 is an article comprising a machine-accessible medium having associated data, wherein the data, when accessed, results in a machine performing the method of claim 1; therefore, claim 8 is rejected on the same rationale of claim 1 above.

Referring to claim 9, Simelius disclose storing a master license code (i.e. content key) associated with master license in the master device (see paragraph [0125] & claim 21) and storing a shareable license code (i.e. content key) associated with the shareable license in the shareable device (see paragraph [0028] & claim 21).

Referring to claim 10, Simelius discloses augmenting the application to include an application code (i.e. content key) to check against a master license code stored in the master device (see paragraph [0014]).

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7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius, Lopatic, and Serafat as applied to claim 1 above, and further in view of US Publication No. 2005/0102240 to Misra et al.

Simelius discloses a shareable device and a first application (see claim 1 above).

Simelius does not expressly disclose receiving a response at the shareable device to verify the current execution of the first application. Misra et al. discloses receiving a response (i.e. the challenge) at the sharable device to verify the current execution of the first application (see paragraph [0108] –the client requests a license; in response, the license server initiates a client challenge to determine who the client is). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose to include the step of receiving a response at the shareable device to verify the current execution of the first application. One of ordinary skill in the art would have been motivated to do this because it determines who the client is and what platform it is running (see paragraph [0108] of Misra et al.).

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius, Lopatic, and Serafat as applied to claim 8 above, and further in view of US Publication No. 2004/0039916 to Aldis et al. (“Aldis”)

Simelius discloses shareable device and master device (see claim 8 above). Simelius does not expressly disclose receiving an option to upgrade the shareable device to operate as a second master device. Aldis discloses receiving an option to upgrade the shareable device to operate as a second master device (see paragraph [0147] – Aldis’ system allows client’s to update their licenses for server-type products; since, this option is available can is suggested that

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an option to upgrade may be received). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Simelius reference to include the step of receiving an option to upgrade the shareable device to operate as a second master device. One of ordinary skill in the art would have been motivated to do this because it provides more flexibility to the clients.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simelius, Lopatic, and Serafat as applied to claim 8 above.

Referring to claim 12, Simelius discloses execution of an application on the shareable device (see claim 8 above). Simelius does not expressly disclose terminating the execution of the application on the shareable device by revoking the sharable license. Lopatic discloses terminating the execution of the application on the shareable device by revoking the sharable license (see paragraph [0032] – Lopatic teaches continuing an execution of the individual download copy if a permission to run is obtained and aborting the execution otherwise and claim 6 –the license has an expiration date that indicates a date on which the software license will expire) modify the method disclose by Simelius to include the step of terminating the execution of the second application on the shareable device after failing to receive a response verifying current execution of the first application on the master device. One of ordinary skill in the art would have been motivated to do this because it protects the rights of the software supplier and control the transfer of licenses (see paragraphs [0017] & [0018] of Lopatic).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

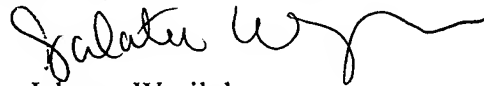
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571-272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and 571-273-6714 for Non-Official /Draft.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jalatee Worjloh
Primary Examiner
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December 14, 2007